Calendar No. 595

99TH CONGRESS
2d Session

SENATE

REPORT
99-276

THE RELEASE OF CERTAIN RESTRICTIONS ON CERTAIN LANDS IN CALCASIEU PARISH, LA

MARCH 27 (legislative day, MARCH 18), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2031]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2031) to authorize the Secretary of the Interior to release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes, having considered the same, report favorably thereon with an amendment to the text and to the title of the bill and recommend that the bill as amended do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert in lieu thereof the following:

(a) The United States hereby releases, without monetary consideration, all restrictions, conditions, and limitations on the use or conveyance of certain lands located in Calcasieu Parish, Louisiana, as identified as Item Numbers 2, 4, 5, 6, 7-B, 8, 9, x, y, z, and Tract 7 on the map entitled "Plat of Restricted Properties/Former Chenault Airbase, Lake Charles, Louisiana", dated December 6, 1985, to the extent such restrictions, conditions and limitations are enforceable by the United States: *Provided,* That the United States shall have the right of access to, or use of, those lands identified on said map for national defense purposes in time of war or national emergency.

(b) Nothing in this Act shall affect the disposition or ownership of oil, gas, or other mineral resources associated with lands identified on the map referenced in subsection (a).

2. Amend the title so as to read:

A bill to release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes.

71-010 O

S313-7

PURPOSE OF THE MEASURE

S. 2031 would direct the Secretary of the Interior to release all restrictions, conditions, and limitations on the use or conveyance of certain lands in Calcasieu Parish, Louisiana to the extent that such restrictions, conditions, and limitations are enforceable by the United States. The mandate to release restrictions would not apply to restrictions that relate to a right of access to, or use of, any real property by the United States for national defense purposes in time of war or national emergency.

BACKGROUND AND NEED

Many of the lands in S. 2031 were acquired by Calcasieu Parish and then donated to the Air Force in the mid-to-late 1950's. The Parish spent $13,670,000 in acquiring lands, constructing a drainage system and moving its general avaiation facilities to a new airport. These commitments were made by the Parish, in exchange for a commitment from the Air Force to maintain a permanent air base on the lands. The Air Force did designate the base as permanent in 1958, but in 1961 decided to close it. Since that time a portion of the base has been used by the Parish under various restrictions for a variety of purposes.

Two of the 10 parcels that would be affected by S. 2031 were conveyed by the Secretary of the Interior under the authority of Public Law 91-485, which allows the Secretary of the Interior to sell or lease Federal property for public park or public recreational purposes to any State, political subdivision or municipality. The Act requires that the lands be used and maintained for the purpose for which they were conveyed in perpetuity. In the event that the property ceases to be used or maintained for the purpose for which it was conveyed, the Act states that the property shall, at the option of the United States, revert to the United States. Thus, the need for legislation.

LEGISLATIVE HISTORY

S. 2031 was introduced by Senator Johnston on January 30, 1986. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 2031 on March 4, 1986. The Administration, in testimony, has no position on S. 2031.

At a business meeting on March 26, 1986, the Senate Committee on Energy and Natural Resources ordered S. 2031, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on March 26, 1986, by a unanimous vote of a quorum present recommends that the Senate pass S. 2031, if amended, as described herein.

The rollcall vote on reporting the measure was 16 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop*	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles*	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Rockefeller	

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 2031, the Committee adopted an amendment in the nature of a substitute and an amendment to the title. The substitute makes three technical changes in the bill as introduced which do not change the effect of the measure.

(1) The restrictions on the use of the property are released by the Congress as of the date of enactment of the Act. The bill as introduced directed the Secretary of the Interior to release the restrictions. This extra step is unnecessary and has been deleted.

(2) In response to the Department of the Interior's testimony, a map has been prepared precisely identifying the lands involved rather than utilizing the file numbers as proposed in the bill as introduced.

(3) Language has been included, also at the suggestion of the Administration, making clear that the release of the use restrictions in no way affects the disposition or the ownership of any minerals associated with these lands.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the *Congressional Record* for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2031. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2031, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 2031 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 27, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 2031, a bill "To authorize the Secretary of the Interior to release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes."

S. 2031 would direct the Secretary of the Interior to release all restrictions, conditions, and limitations on the use or conveyance of certain lands in Calcasieu Parish, Louisiana to the extent that such restrictions, conditions, and limitations are enforceable by the United States. The mandate to release restrictions would not apply to restrictions that relate to a right of access to, or use of, any real property by the United States for national defense purposes in time of war or national emergency.

Except for two of the deeds listed in subsection (c) of S. 2031, the deeds of conveyance were issued by the U.S. Department of Health, Education and Welfare (now Department of Health and Human Services) for educational purposes. The Department of Education is the successor agency to the Department of Health, Education and Welfare with respect to these conveyances. It would not be appropriate for the Secretary of the Interior to release the restrictions, conditions and limitations stipulated in S. 2031 insofar as these pertain to surface usage. We therefore defer to the Department of Health and Human Services with regard to the surface use of the parcels deeded by that Department. The Secretary of the Interior is the appropriate person to release Federal mineral rights on these parcels. Generally we are opposed to conveyance of Federal mineral rights without adequate compensation to the United States. This is also a policy that has been legislated by Congress. Section 209 of the Federal Land Policy and Management Act authorizes the Secretary of the Interior to sell Federal mineral interests under certain circumstances. However, that section requires that fair market value be obtained for any Federal minerals that are conveyed. The potential mineral value of the parcels described in S. 2031 is evidenced by the fact that a portion of the lands is included within a Federal oil and gas lease that was issued competitively to Amoco Oil Company in 1985.

Two of the ten parcels that would be affected by S. 2031 were conveyed by the Secretary of the Interior under the authority of Public Law 91-485. That law, enacted on October 22, 1970, amended the Federal Property and Administrative Services Act of 1949 to

allow the Secretary of the Interior to sell or lease Federal property for public park or public recreational purposes to any State, political subdivision or municipality. The 1970 Act requires that the lands be used and maintained for the purpose for which they were conveyed in perpetuity. In the event that the property ceases to be used or maintained for the purpose for which it was conveyed, the Act states that the property shall, at the option of the United States, revert to the United States.

In situations similar to S. 2031 we have indicated that release of the restrictions would be inconsistent with this Congressional mandate, and that, if enacted, it could create an undesirable precedent affecting the thousands of acres of public land that have been conveyed with public use restrictions. Nevertheless, we recognize that public needs for land change over the years, and we would have no objection to changing the public use to which these lands are to be put. However, we are generally opposed to removing all restrictions on the lands without reimbursement therefor. The public use requirement is essential to prevent an unfair windfall at the expense of the United States.

S. 2031 may present a somewhat different situation. We understand that much of the lands involved in S. 2031 were acquired by Calcasieu Parish and then donated to the Air Force in the mid-to-late 1950's. We have been informed that the Parish spent $13,670,000 in acquiring lands, constructing a drainage system and moving its general aviation facilities to a new airport. The commitments were made by the Parish, we are told, in exchange for a commitment from the Air Force to maintain a permanent air base on the lands. The Air Force did designate the base as permanent in 1958, but in 1961 decided to close it.

Since that time a portion of the base has been used by the Parish under various restrictions for a variety of purposes.

The land that the Parish donated for the air base is apparently the same land they are now seeking. This may justify further consideration of the particular facts leading to this legislation. However, the Department of the Interior does not have sufficient information to verify that the lands covered in S. 2031 are identical to those donated by the Parish.

Because of these circumstances we take no position on this legislation. It is our hope that the Congress can verify that the subject lands are in fact those donated by the Parish and determine if these facts warrant the special relief that the bill would grant.

If Congress makes such a finding, provision should be made for the existing oil and gas lease, and the Federal interests in the minerals in the land.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,
Acting Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2031, as reported.

○